UNITED STATES GOVERNMENT

memorandum

DATE: September 21, 1994

REPLY TO ATTN OF: Superintendent, Anchorage Agency

SUBJECT: Request For Secretarial Election

SEP 28 1994

SEP 27 1994

BUREAU OF INDIAN AFFAIRS
OFFICE OF THE AREA DIRECTOR

TO: Area Director, Juneau Area Office
Attention: Niles Cesar

Attached is a request for Secretarial Election on the Constitution and Bylaws of King Salmon.

Technical comments will follow. Preliminary note, King Salmon was not recognized under ANCSA or on the federal register as a federally recognized tribe.

Albert D. Kahklen

Attachment

CONSTITUTION
of the
NATIVE VILLAGE OF KING SALMON

PREAMBLE

We, the Alaska Natives of King Salmon, Alaska, citizens of the United States and descendants of the original inhabitants of this land, having common bonds of ancestry, culture, and community identity, in order to implement our inherent right of self-government as an Alaska Native people and to further our common political, social, and economic progress, do ordain and establish this constitution by authority of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended.

ARTICLE I. NAME

This community shall be called the Native Village of King Salmon.

ARTICLE II. TERRITORY

Section 1. Jurisdiction. The territorial jurisdiction of the Native Village of King Salmon extends to all such Indian Country of the village as may exist pursuant to federal law.

Section 2. Residency. For purposes of determining historic and current residency, the Native Village of King Salmon includes all lands within the Bristol Bay Borough to the east of the following boundary: beginning at a point on the southern boundary of the Bristol Bay Borough due south of the juncture of Paul's Creek and the Naknek River, north to the center of Paul's Creek at its juncture with the Naknek River, thence meandering in a general northeasterly direction along the center of Paul's Creek to the northern boundary of the Bristol Bay Borough.

ARTICLE III. MEMBERSHIP

Section 1. Base membership. All persons listed on the Base Roll of the Native Village of King Salmon shall be members of the village. The Base Roll consists of a list of individuals submitted to the Secretary of the Interior by the traditional village council of King Salmon in connection with its call for an election on this constitution, and includes only those persons of at least one-eighth (1/8) Alaska Native descent who:

(a) are domiciled in King Salmon at the time of preparation of the Base Roll; or

(b) were born or raised in King Salmon; or

(c) have such substantial ties to King Salmon as to be

considered members of the village by common community knowledge, as determined by the village council; or

(d) are shareholders of Paug-Vik, Inc. or the Alaska Peninsula Corporation and have other significant ties to King Salmon, as determined by the village council.

Section 2. New members.

(a) Children. All children of at least one-sixteenth (1/16) Alaska Native descent born to members residing in the village or who are adopted by members residing in the village shall be admitted to membership upon application.

(b) New residents. Any person of at least one-eighth (1/8) Alaska Native descent who lives in the village for at least one year and intends to remain in the village may be admitted to membership at the discretion of the village council.

(c) Adopted members. Any person of at least one-eighth (1/8) Alaska Native descent not otherwise eligible for membership but with family or other significant ties to the village may be admitted to membership at the discretion of the village council.

Section 3. Dual membership prohibited. No person may be a member of the Native Village of King Salmon who is also an enrolled member of another federally recognized Alaska Native village or Indian tribe; provided, that this provision does not apply to those enrolled by the South Naknek or Naknek village councils prior to the adoption of this constitution.

Section 4. Loss of Membership. Membership may be voluntarily relinquished by written notice from a member to the village council. The council may revoke membership involuntarily for just cause upon due process of village law.

ARTICLE IV. VILLAGE COUNCIL

Section 1. Name. The governing body of the Native Village of King Salmon shall be the King Salmon Village Council, referred to herein as the "village council," or "council."

Section 2. Composition. The village council shall consist of five adult resident members of the village who shall be elected by a majority vote of the eligible voters at an annual election. Council members shall take office immediately upon certification of the election by the election committee.

Section 3. Officers. The village council shall include a president, a vice-president, a secretary and a treasurer. The positions of secretary and treasurer may be held by the same council member. Officers shall be selected by the council from its

members immediately following certification of the annual election.

Section 4. Term of office. Council members shall serve for a term of two years, with staggered terms.

Section 5. Vacancies. Any office which is vacated shall be filled by appointment by the remaining council members at their next meeting. The replacement shall serve until the next annual election.

ARTICLE V. ELECTIONS

Section 1. Voter Qualifications. Any member of the Native Village of King Salmon who has reached the age of 18 years or older and who has resided in the village for at least one year shall be eligible to vote.

Section 2. Elections. The regular election of officials and on other matters before the voters shall be held at or in conjunction with an annual membership meeting, the time, date and place of which shall be established by the council. Special elections may be called at other times by the council, provided that no election shall be called during fishing season or at times when substantial numbers of village residents are outside the village. Unless otherwise provided by this constitution a minimum of 10% of those entitled to vote must vote for an election to be valid.

Section 3. Notice. The council shall publicize all village elections at least fifteen days in advance.

Section 4. Secret Balloting. All elections of officials and on issues before the voters by initiative or referendum shall be by secret ballot.

Section 5. Election Committee. At least fifteen days prior to any village election, the council shall appoint three responsible persons, none of whom may be candidates for office, to administer and conduct the election and certify election results. The election committee shall determine the eligibility of voters under this constitution. The committee members shall serve from the date appointed until the certification of the election they were appointed to oversee.

Section 6. Election Ordinance. As soon as practicable after the adoption of this Constitution, the council shall enact a tribal election ordinance. The ordinance shall, consistent with this constitution, include provisions for conducting all tribal elections and address matters such as secret and absentee balloting, nomination of candidates, voter registration and the maintenance of a list of eligible voters, the settling of election disputes, and other matters related to the conduct of elections.

Section 7. First Election. As soon as practicable after the adoption of this constitution, the existing traditional council shall call an election or meeting to elect the first members to the council authorized by this constitution. For this election or meeting only, the traditional council shall appoint an election committee, none of whose members may be council candidates.

ARTICLE VI. REMOVAL FROM OFFICE

Section 1. Misconduct or neglect. Any council member or other official found guilty by the council of behavior involving gross misconduct in office or neglect of duty may be removed from office by a vote of at least three members of the council. Voting must be by secret ballot and the accused, if a council member, is entitled to vote. Before any vote for removal is taken, the accused must be given a reasonable opportunity to answer the charges against him.

Section 2. Recall. Community members shall have the power to remove any member of the council by recall. The process shall be initiated by filing a petition asking for a recall with the council. The petition must be signed by at least 20% of the eligible voters and must set forth the reasons for the petition. The council must hold a community election to consider the recall within thirty days of the filing of the petition. Once a council member has been subjected to recall proceedings, that person shall not again be subject to recall during the balance of his current term in office.

Section 3. Forfeiture. Any council member who permanently moves from the village, is convicted of a felony by state or federal court, or ceases to be a member of the village shall automatically forfeit his office.

ARTICLE VII. POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. Community members shall have the right to propose legislation or any other community action within the authority of the tribe. Upon receipt of a petition signed by at least 20% of the eligible voters, the council shall call an election to be conducted within thirty days of receipt of the petition. The decision of the voters in initiative elections shall be binding for a minimum of two years or until amended or rescinded by the voters.

Section 2. Referendum. The council may refer any issue to a binding or advisory vote of the membership. The notice of the referendum election must clearly state whether it is binding or advisory in nature.

ARTICLE VIII. POWERS

Section 1. General Powers. Except as specifically limited by this constitution, the powers of the Native Village of King Salmon shall be exercised by the village council and shall include all the inherent powers of a federally recognized tribal government, including but not limited to those specified in this Article, which do not violate federal or tribal law. The council may authorize an officer to act in specific circumstances.

Section 2. Internal Procedures. Consistent with this constitution, the council may enact rules to govern its internal procedures and organization and to further define the duties of tribal officers.

Section 3. Other Council Powers. In addition to all powers vested in the tribe or council by existing law and this constitution, the tribe, acting through the council, shall have the following powers:

(a) To negotiate with federal, state or local governments and others on behalf of the tribe and to advise and consult with representatives of the Secretary of the Interior on all activities which may effect the tribe.

(b) To promote and protect the health, education and general welfare of the members of the tribe, and to administer charity and such other services as may contribute to the social and economic development of the tribe and its members.

(c) To raise revenue.

(d) To encourage, guard and foster traditional cultural practices of the Native Village of King Salmon people, including the arts, crafts, language and customs of the people.

(e) To authorize or direct subordinate boards, committees or officials to administer the affairs of the tribe and to carry out the directives of the council.

(f) Except as limited by this constitution, to manage, lease, exchange, acquire, or otherwise deal with tribal or other property, and to protect and preserve tribal property and the wildlife and natural resources within those areas under the jurisdiction of the tribe.

(g) To administer any funds within the control of the tribe.

(h) To engage in economic development enterprises for the benefit of the tribe or its members.

(i) To regulate child custody and adoption pursuant to the Indian Child Welfare Act or other applicable law.

(j) To negotiate agreements with other governments and international agencies not inconsistent with federal law.

(k) To safeguard and promote the peace, safety, morals, physical and general welfare of the members of the tribe.

(l) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior so long as required by federal law.

(m) To charter enterprises, corporations and associations and to join or charter housing authorities.

(n) To exercise judicial power on matters within the jurisdiction of the tribe, and to establish courts of general or limited jurisdiction.

(o) To exercise any and all powers heretofore or hereafter delegated by the federal or state governments and to exercise any power not contrary to applicable federal law.

(p) To enact ordinances, procedures and regulations necessary to give effect to any provision of this constitution.

Section 4. Powers Reserved to Membership. Except by majority vote of the eligible voters acting through a general membership meeting or a properly called election, no tribal taxes may be levied nor may any tribal lands, interests in lands or other tribal assets be sold, leased, encumbered or otherwise disposed.

Section 5. Waivers of Sovereign Immunity and Jurisdiction. Nothing in this constitution shall be deemed or construed a waiver of the sovereign immunity or jurisdiction of the tribe. General waivers of sovereign immunity or jurisdiction are prohibited. Sovereign immunity or jurisdiction may only be waived by resolution or other appropriate document approved by vote of the council, and only to the extent specified in such document and permitted by this constitution and federal law. Waivers of sovereign

immunity or jurisdiction must be specific and limited as to duration, grantee, transaction, property, or funds, if any, of the tribe subject thereto, the court having jurisdiction, and applicable law. Waiver of the sovereign immunity of the tribe shall not be deemed a general consent to the levy of any judgment, lien or attachment upon property of the tribe other than property specifically pledged, assigned or otherwise explicitly made subject to levy by the terms of the waiver.

Section 6. Retained Powers. The retained powers of the tribe not expressed in this constitution shall not be lost by omission, but may be exercised by majority vote of the eligible voting members or delegated by the eligible voting members to the council.

ARTICLE IX. RIGHTS OF MEMBERS

Section 1. Rights and Privileges. All members of the tribe shall enjoy without hindrance their rights as citizens of the United States and the State of Alaska.

Section 2. Indian Civil Rights Act. The Native Village of King Salmon and its council shall comply with the provisions of the Indian Civil Rights Act, 25 USC 1301, et. seq., and not infringe the individual liberties guaranteed therein.

Section 3. Right to Inspect Records. Members of the village shall have the right to review all records of the tribal government, including financial records, at any reasonable time in accordance with procedures established by the council.

ARTICLE X. DUTIES OF OFFICERS

Section 1. President. The President shall preside at all meetings of the community and of the council and shall execute on behalf of the village all contracts, leases, or other formal documents approved by the council. He shall vote in matters before the council. He shall have the general supervision of all other officers, employees and committees of the village and see that their duties are properly performed. When the council is not in session, he shall be the official representative of the community.

Section 2. Vice President. The Vice President shall assist the President when called upon to do so. In the absence of the President, he shall preside and when so presiding shall have all the rights, duties, privileges and responsibilities of the president.

Section 3. Secretary. The secretary shall keep the minutes of all meetings and shall attest to the enactment of all resolutions and ordinances. He shall maintain in permanent form all minutes, resolutions, ordinances and rules of the village, which shall be public information. He shall issue notices of all meetings and elections and conduct all general correspondence as directed by the council.

Section 4. Treasurer. The treasurer shall carry out the financial directives of the council, receive and safeguard all monies of the council and keep an accurate account of receipts and disbursements. He shall report to the council all receipts and expenditures and the amount and nature of all council funds. Funds shall be deposited in a bank approved by the council where depositors' funds are insured by the Federal Deposit Insurance Corporation. All disbursements shall be made by check in accordance with resolutions of the council.

Section 5. Delegation of Duties. Administrative functions of the officers may be delegated to tribal staff upon approval by the council.

ARTICLE XI. MEETINGS

Section 1. Village Meetings. Regular meetings of the membership of the Native Village of King Salmon shall be held at least once annually, the date, time and place to be established by the council. Special meetings of the membership may be called by the president and shall be called by him upon either a majority vote of the council or upon receipt of a petition signed by at least 20% of the eligible voters; provided, that no membership meeting may be called during fishing season or at other times when substantial numbers of village residents are outside the village.

Section 2. Quorum of Membership. A quorum of the membership at regular and special meetings shall be 10% of the eligible voters. No business shall be transacted unless a quorum is present.

Section 3. Council Meetings. Regular meetings of the council shall be held monthly, the time, place and date to be designated by the council. Special meetings of the council may be called by the president and shall be called by him upon request of at least two members of the council, and when so called the council shall have power to transact business as in regular meetings.

Section 4. Quorum of Council. A quorum of the council shall consist of three members of the council. No business shall be transacted unless a quorum is present.

Section 5. Council Decisions. Final decisions of the council on matters of permanent interest, such as the passage of village laws

and regulations, shall be by ordinance. Final decisions of the council on matters of temporary interest may be by resolution.

Section 6. Conflict of Interest. No council member may vote on any matter pertaining specifically to him or to an immediate family member or on any matter in which he or an immediate family member has a significant financial interest. Nothing herein bars a council member from voting on a matter in which the benefit to him is common to that of village members at large, or bars a council member or a member of his family from employment by the village. Immediate family members are defined as father, mother, brother, sister, wife, husband, son, daughter, or anyone in the council member's household.

Section 7. Open Meetings. All meetings of the council and of the membership shall be open to the public; provided, that either body may recess at its discretion to discuss any matter in a closed session, if the reason for going into closed session is stated in the motion calling for such session and no final or official action is taken in the closed session.

Section 8. Parliamentary Procedure. All council and membership meetings shall be conducted in accordance with Roberts Rules of Order or other rules adopted by the council.

Section 9. Notice. All meetings of the membership must be publicized at least fifteen days in advance. Council meetings shall be publicized at least 48 hours in advance, provided that the notice period may be waived if the council finds sufficient cause and notice appropriate to the circumstances has been given.

ARTICLE XII. SEVERABILITY

If any provision of this constitution should be declared invalid by a federal or tribal court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in effect.

ARTICLE XIII. SAVINGS CLAUSE

Section 1. Existing Law Remains in Effect. To the extent consistent with this constitution, all previous ordinances and resolutions adopted by the traditional council of King Salmon and all customary village law shall remain in effect following the adoption of this constitution.

Section 2. Revisions. In the event of future constitutional revisions, all previous ordinances, resolutions and customary village laws shall remain in effect to the extent that they are consistent with the new constitution or amendments.

ARTICLE XIV. AMENDMENTS

Amendments to this constitution may be proposed by a majority vote of the council and shall become effective when approved by the Secretary of the Interior and ratified by the qualified voters of the community as defined by this constitution and provided that at least twenty percent (20%) of those entitled to vote shall vote.

ARTICLE XV. ADOPTION

This constitution, when adopted by a majority vote of the voting members of the Native Village of King Salmon voting at an election called for that purpose by the Secretary of Interior or his authorized representative at which at least thirty percent (30%) of the voting membership shall vote, shall be submitted to the Secretary of the Interior, or his authorized representative, for approval and shall be effective from the date of such approval or as otherwise authorized by law.

CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by the Assistant Secretary - Interior Affairs, on _____, the Constitution of the Native Village of King Salmon was submitted to the qualified voters of the Native Village of King Salmon and on _____, was duly adopted/rejected by a vote of _____ for, and _____ against, and _____ cast ballots found spoiled or mutilated, in an election at which at least thirty percent (30%) of the _____ members entitled to vote, cast their ballot in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

_____
Chairperson, Election Board

_____
Member, Election Board

_____
Member, Election Board

Date: